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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,573	11/22/2003	Belle L. Chou	SHENW.PT4	3254
24943 7590 04/21/2008 INTELLECTUAL PROPERTY LAW GROUP LLP 12 SOUTH FIRST STREET SUITE 1205 SAN JOSE, CA 95113				
EXAMINER				
VU, JAKE MINH				
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
04/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/719,573

Applicant(s)

CHOU, BELLE L.

Examiner

JAKE M. VU

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1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 24-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Receipt is acknowledged of Applicant's Amendment filed on 01/14/2008.

- Claims 1, 2, and 18 have been amended.
- Claims 1-31 are pending in the instant application.
- Claims 24-31 have been previously withdrawn from consideration.

Claim Rejections - 35 USC § 112

Claims 2 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention **are withdrawn** in view of Applicant's amendment and argument.

Claim Rejections - 35 USC § 102

Claims 1-6, 13-15 and 17 rejected under 35 U.S.C. 102(b) as being anticipated by DANGMAN et al (US 5,335,373) **are withdrawn** in view of Applicant's amendment.

Claims 1 and 13-16 rejected under 35 U.S.C. 102(b) as being anticipated by SHLENKER et al (US 5,338,565) **are withdrawn** in view of Applicant's amendment.

Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by HOURIHAM et al (US 6,913,758) **are withdrawn** in view of Applicant's amendment.

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However, upon further consideration, a new ground(s) of rejection is made as discussed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by USALA (US 5,236,703).

Applicant's claims are directed to a disposable glove comprising of: a first layer with an effective amount of antimicrobial agent therein the glove material; and a second layer, configured to resist penetration by the antimicrobial onto the hand. Additional limitations include: first layer is made of vinyl, second layer is made of fluid-impermeable material.

USALA teaches a multilayer (see col. 3, line 65; and col. 4, line 20) medical glove (see col. 1, line 27), which would read on disposable glove, comprised of: a first layer with an effective amount of antimicrobial agent, such as povidone-iodine (see col. 4, line 55) therein the glove material or on the outer surface (see col. 3, line 52-54); and a second layer with no antimicrobial to prevent allergic reaction to the antimicrobial (see col. 4, line 54-59). Additional disclosures include: first layer and second layer can be made of vinyl (see col. 5, line 61) or a fluid-impermeable material, such as butadiene-styrene or neoprene (see col. 5, line 51).

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Note, the no release of antimicrobial from the inner surface to prevent allergic reaction (see col. 4, line 54-59), would read on configured to resist penetration by the antimicrobial onto the hand.

Note, the dipping of latex into a mixture of povidone-iodine would inherently distribute the antimicrobial evenly within or onto the glove (see col. 4, line 1-5).

Claim Rejections - 35 USC § 103

Claims 1-23 rejected under 35 U.S.C. 103(a) as being unpatentable over HOURIHAN et al (cited supra) or SHLENKER et al (cited supra) in view of CHOU (US 2003/0204893) and DRESDNER et al (US 5,357,636) **are withdrawn** in view of Applicant's amendment.

However, upon further consideration, a new ground(s) of rejection is made as discussed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), and WOLLMANN et al (US 3,793,059).

MILNER teaches a glove comprised of: 1% (see col. 2, line 9) of 2,4,4'-trichloro-2'-hydroxyphenyl ether, which is triclosan (see abstract and col. 1, line 42-43). Additional disclosures include: the glove could be made from polyvinyl chloride or polyurethane (see col. 2, line 13), which has less protein than natural rubber latex; and the antimicrobial is within or on the surface of the glove (see col. 2, line 4-5). Additional disclosure include: homogenous mixture (see col. 3, line 5), which would inherently distribute the antimicrobial evenly within or onto the glove.

MILNER does not teach using a multilayer glove; or an additional anti-microbial that is an acid from an edible plant.

FECHNER teaches triclosan may lead to allergic reactions.

As discussed above, USALA teaches a multilayer (see col. 3, line 65; and col. 4, line 20) medical glove (see col. 1, line 27), which would read on disposable glove, comprised of: a first layer with an effective amount of antimicrobial agent, such as povidone-iodine (see col. 4, line 55) therein the glove material or on the outer surface (see col. 3, line 52-54); and a second layer with no antimicrobial to prevent allergic reaction to the antimicrobial (see col. 4, line 54-59). Additional disclosures include: first layer and second layer can be made of vinyl (see col. 5, line 61) or a fluid-impermeable material, such as butadiene-styrene or neoprene (see col. 5, line 51).

WOLLMAN teaches a glove comprised of an anti-microbial and buffer that is an acid from an edible plant, such as salicylic acid (see col. 1, line 25-26), to keep the pH of the skin well within the acid range (see col. 1, line 18) and to prevent allergic reactions of the skin (see col. 1, line 10-11).

It would have been obvious to the person of ordinary skill in the art at the time the invention was made to incorporate an inner layer to prevent the triclosan from contacting the hand and add an additional anti-microbial and buffer agent that is an acid from an edible plant, such as salicylic acid, into MILNER's glove. The person of ordinary skill in the art would have been motivated to make those modifications, because some people are allergic to triclosan and some people have allergic reaction to the alkalis in latex gloves. The person of ordinary skill in the art reasonably would have expected success because all of the references dealt with the same subject matter such as the glove industry.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), WOLLMANN et al (US 3,793,059) and CHOU (US 2003/0204893).

As discussed above, MILNER in view of FECHNER, USALA and WOLLMAN teaches Applicant's invention.

However, the references do not teach keeping the acidic range to a specific pH of 4.5-6.0 or a soothing substance, such as aloe vera.

CHOU teaches an antimicrobial glove comprised of the same anti-microbial and buffer agent as WOLLMAN, such as salicylic acid (see [0043])) to keep the pH acidic at a range of 4.5-6.0 (see [0023]); and a soothing substance, such as aloe vera powder (see [0032], [0034], and [0051])), which would read on dehydrated preparation. The

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glove material could be made from polyurethane, chloroprene, neoprene, butadiene (see [0022]).

It would have been obvious to the person of ordinary skill in the art at the time the invention was made to set the pH range at 4.5-6.0 and add aloe vera into the prior arts' glove. The person of ordinary skill in the art would have been motivated to make those modifications, because WOLLMAN disclosed having an acidic pH range and CHOU disclose a range of 4.5-6.0 would have antimicrobial effect. Additionally, the aloe vera would soothe the hand of the wearer. The person of ordinary skill in the art reasonably would have expected success because all of the references dealt with the same field of endeavor, such as the glove industry.

Note, with regard to claim 23, the claim recites a composition, and the intended use recited in the preamble would reasonably appear not to be a claim limitation. "If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim...If, however, the body of the claim fully and intrinsically sets forth the complete invention, including all of its limitations, and the preamble offers no distinct definition of any of the claimed invention's limitations, but rather merely states, for example, the purpose or intended use of the invention, then the preamble is of no significance to claim construction because it cannot be said to constitute or explain a claim limitation." *Pitney Bowes, Inc. v. Hewlett Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999).

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Thus, the intended use as disposable protective examination glove in the glove composition claim is met by the prior art, because the prior art glove would be at least capable of performing said use.

Telephonic Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAKE M. VU whose telephone number is (571)272-8148. The examiner can normally be reached on Mon-Tue and Thu-Fri 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

Jake M. Vu, PharmD, JD
Art Unit 1618